

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EVAN KING,

Plaintiff,

**COMPLAINT AND DEMAND  
FOR A JURY TRIAL**

-v-

**INDEX No. 14-CV-2300 (AT)**

THE CITY OF NEW YORK, NYPD Officer ANTHONY  
FRANCAVILLA (Shield No. 26944), NYPD Officers  
JOHN DOE 1 through JOHN DOE 3 (the name “John  
Doe” being fictitious as the true name is not currently  
known to plaintiff), in their individual capacities,

Defendants.  
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Plaintiff EVAN KING, by his attorney Robert M. Quackenbush of Rankin & Taylor,  
PLLC, as and for his complaint, does hereby state and allege:

**PRELIMINARY STATEMENT**

1. This is a civil rights action brought to vindicate the plaintiff’s rights under the Fourth and Fourteenth Amendments of the Constitution of the United States, through the Civil Rights Act of 1871, amended and codified as 42 U.S.C. § 1983.
2. Plaintiff EVAN KING’s rights were violated when officers of the New York City Police Department (“NYPD”) unconstitutionally and without any legal basis arrested Mr. KING and used excessive, unlawful force against him in the course of arresting him for allegedly putting his feet on a subway seat.
3. Since Mr. KING did not, in fact, have his feet on a subway seat at any relevant time, his arrest was made without probable cause. Since Mr. KING did not resist arrest, the force used to throw him to the ground and the additional force used upon him when he was already on the ground was excessive under the circumstances.

4. By reason of defendants' actions, including their unlawful arrest and uses of force, Mr. KING was deprived of his rights secured by the Fourth and Fourteenth Amendments.

### **JURISDICTION AND VENUE**

5. This action is brought pursuant to 42 U.S.C. § 1983 for violations of the Fourth and Fourteenth Amendments to the Constitution of the United States.
6. This Court has subject matter jurisdiction over federal claims, such as those raised in this case, pursuant to 28 U.S.C. §§ 1331, 1343(a)(3-4).
7. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because the constitutional violations here at issue occurred within the confines of this judicial district.
8. An award of costs and attorneys' fees is authorized pursuant to 42 U.S.C. § 1988.

### **PARTIES**

9. Plaintiff EVAN KING is a resident of Kings County in the State of New York. On December 28, 2012, the date of the incident described below, Mr. KING was a resident of New York County.
10. Besides the arrest here at issue, Mr. KING has never been arrested for any reason.
11. Defendant CITY OF NEW YORK is a municipal entity created and authorized under the laws of the State of New York. It is authorized by law to maintain a police department which acts as its agent in the area of law enforcement and for which it is ultimately responsible. The CITY assumes the risks incidental to the maintenance of a police force and the employment of police officers as said risks attach to the public consumers of the services provided by the NYPD.
12. Defendants NYPD Officer ANTHONY FRANCAVILLA (Shield No. 26944) and NYPD Officers JOHN DOE 1 through JOHN DOE 3 (the names "John Doe" being fictitious, as the

true names and shield numbers are not currently known to plaintiff) (collectively, the “officer-defendants”) were at all times relevant herein, officers, employees and agents of the NYPD. The officer-defendants are being sued herein in their individual capacities.

13. Upon information and belief, on December 28, 2012 (the date of the incident described below), Officer FRANCAVILLA was assigned to the NYPD’s Transit Division District 1.
14. The true names and ranks of Officers JOHN DOE 1 through JOHN DOE 3 are not currently known to Mr. KING. However, they were, at the time of the incident herein described, employees or agents of the NYPD. Accordingly, the DOE defendants may be entitled to representation in this action by the New York City Law Department (“Law Department”) upon their respective requests, pursuant to General Municipal Law § 50-k. The Law Department, then, is hereby put on notice (a) that Mr. KING intends to name the DOE defendants as defendants in an amended pleading once their true names and ranks becomes known and (b) that the Law Department should immediately begin preparing their respective defense(s) in this action.
15. At all times relevant herein, the officer-defendants were acting under color of state law in the course and scope of their duties and functions as agents, servants, employees and officers of the NYPD, and had otherwise performed and engaged in conduct incidental to the pursuit and performance of their lawful functions in the course of their duties. They were acting for and on behalf of the NYPD at all times relevant herein, with the power and authority vested in them as officers, agents and employees of the NYPD.
16. The officer-defendants’ acts hereafter complained of were carried out intentionally, recklessly, with malice and gross disregard for Mr. KING’s rights.

**STATEMENT OF FACTS**

17. The facts of the arrest alleged herein occurred on December 28, 2012 at approximately 3:30 a.m. on the platform for the “D” train in the Columbus Circle subway station in Manhattan.
18. On the evening of December 27, 2012, Mr. KING met up with two friends in the East Village to watch a professional basketball game on television.
19. When the game ended, Mr. KING and his friends went to a nearby restaurant where they ate and talked for about two hours.
20. At approximately 3:00 a.m., Mr. KING helped his friends find a taxi so they could get home safely.
21. Mr. KING took a Queens-bound “F” train to Columbus Circle in order to transfer to the “D” train which would take him to his home in Washington Heights.
22. Mr. KING boarded the “D” train and sat down.
23. Mr. KING heard the train conductor announce that the doors would be closing, but they did not close as announced.
24. Mr. KING looked over his shoulder and saw Officer FRANCAVILLA with his foot in the door.
25. Officer FRANCAVILLA motioned towards Mr. KING and said, in sum and substance, “YOU, COME HERE.”
26. Mr. KING looked around to see if Officer FRANCAVILLA was talking to someone else, but Officer FRANCAVILLA looked at Mr. KING and told him, in sum and substance, “YEAH, YOU, COME HERE.”
27. Mr. KING complied and got off the train.

28. Officer FRANCAVILLA began peppering Mr. KING with questions, such as, “WHERE YOU COMING FROM? WHERE YOU GOING? WHERE DO YOU LIVE? WHAT’S YOUR NAME? YOU GOT I.D.?”
29. Mr. KING answered all of the questions asked of him.
30. Mr. KING asked why he was being stopped, but Officer FRANCAVILLA did not answer.
31. Instead, Officer FRANCAVILLA told Mr. KING to “TURN AROUND AND START WALKING.”
32. Mr. KING complied and started walking in the direction ordered by Officer FRANCAVILLA.
33. As Mr. KING saw the train leave the station, he again asked Officer FRANCAVILLA why he had been stopped.
34. Officer FRANCAVILLA responded, in sum and substance, “I’M ASKING THE QUESTIONS.”
35. When Mr. KING told Officer FRANCAVILLA that he did not do anything wrong, Officer FRANCAVILLA became agitated, raised his voice, and stated, in sum and substance, “OH, YOU WANNA BE A DICK? YOU WANNA BE A DICK? TURN AROUND AND PUT YOUR HANDS BEHIND YOUR BACK.”
36. Officer FRANCAVILLA pushed Mr. KING against a wall and motioned towards other people, upon information and belief, the other officer-defendants and other officers.
37. As the other officers approached, Officer FRANCAVILLA threw Mr. KING chest-first to the ground.

38. One of the officer-defendants put his knee into Mr. KING's head and back while other officers cuffed one of his arms. During this process, one of the officer-defendants kicked Mr. KING in the head.
39. The officer-defendants finished cuffing Mr. KING, stood him up, and took him to a holding cell located within the Columbus Circle station.
40. Upon request, Mr. KING gave his shoelaces and belt to Officer FRANCAVILLA, who stated in sum and substance, "ITS SO YOU DON'T HANG YOURSELF. BUT IF IT WERE UP TO ME, I'D LET YOU DO IT."
41. Mr. KING was transported to Central Booking then to Beth Israel Medical Center to treat his injuries. After being examined and given pain medication, Mr. KING was returned to Central Booking.
42. In the early morning hours of December 29, 2012, Mr. KING was presented to the criminal court.
43. There, he was charged with one count of violating 21 N.Y.C.R.R. 1050.7(j)(2), entitled "Placing Foot on a Seat on a MTA Subway or Bus."
44. The charge of violating 21 N.Y.C.R.R. 105.7(j)(2) was based entirely upon the utter fabrications of Officer FRANCAVILLA who swore that he saw Mr. KING "lying down with his feet on the subway seats."
45. After Mr. KING had been in custody approximately 24 hours, the criminal court released Mr. KING on his own recognizance.
46. As a result of his unlawful detention, Mr. KING was forced to miss a day of work at Professional Security Consultants where he was the Assistant Director.

47. After several court appearances, Mr. KING accepted the district attorney's offer of an adjournment in contemplation of dismissal, a disposition which resulted in the dismissal of the charge against him.

48. As a result of defendants' conduct, Mr. KING was deprived of his liberty, suffered profound emotional harms, and was physically injured.

**FIRST CLAIM  
DEPRIVATION OF RIGHTS  
UNDER THE UNITED STATES CONSTITUTION THROUGH 42 U.S.C. § 1983  
(*Against the Officer-Defendants*)**

49. Mr. KING incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

50. The officer-defendants, under color of state law, subjected Mr. KING to the foregoing acts and omissions, thereby depriving Mr. KING of his rights, privileges and immunities secured by the Fourth and Fourteenth Amendments to the United States Constitution, including but not limited to deprivation of the following constitutional rights:

- a. freedom from unreasonable seizure of his person, including the excessive use of force (against Officer FRANCAVILLA and against the other officer-defendants for failing to intervene to prevent the use of force when they reasonably could have done so);
- b. freedom from arrest without probable cause (against Officer FRANCAVILLA);
- c. freedom from false imprisonment (against Officer FRANCAVILLA);
- d. freedom from the lodging of false charges against him by police officers (against Officer FRANCAVILLA); and
- e. freedom from having police officers fabricate evidence against him (against Officer FRANCAVILLA).

51. The officer-defendants' deprivation of Mr. KING's constitutional rights resulted in the injuries and damages set forth above.

**SECOND CLAIM**  
**DEPRIVATION OF RIGHTS**  
**UNDER THE UNITED STATES CONSTITUTION THROUGH 42 U.S.C. § 1983**  
***(Against THE CITY OF NEW YORK)***

52. Mr. KING incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

53. All of the acts and omissions by the officer-defendants described above were carried out pursuant to overlapping policies and practices of the CITY which were in on December 28, 2012 and were engaged in with the full knowledge, consent, and cooperation and under the supervisory authority of the defendant CITY and its agency, the NYPD.

54. The CITY and the NYPD, by their policy-making agents, servants and employees, authorized, sanctioned and/or ratified the officer-defendants' wrongful acts; and/or failed to prevent or stop those acts; and/or allowed or encouraged those acts to continue.

55. The acts complained of were carried out by the officer-defendants in their capacities as police officers and officials pursuant to customs, policies, usages, practices, procedures and rules of the CITY and the NYPD, all under the supervision of ranking officers of the NYPD.

56. The aforementioned customs, practices, procedures and rules of the CITY and the NYPD include, but are not limited to, the following unconstitutional practices:

- a. Arresting persons known to be innocent in order to meet "productivity goals" (i.e., arrest quotas);
- b. Falsely swearing out criminal complaints, and/or lying and committing perjury during sworn testimony
  - i. in order to protect other officers; and/or
  - ii. in order to meet said productivity goals;
- c. Failing to supervise, train, instruct and discipline police officers and encouraging their misconduct;



- d. Discouraging police officers from reporting the corrupt or unlawful acts of other police officers;
- e. Retaliating against officers who report police misconduct; and
- f. Failing to intervene to prevent the above-mentioned practices when they reasonably could have been prevented by a supervisor or other agent or employee of the NYPD.

57. The existence of aforesaid customs and policies may be inferred from repeated occurrences of similar wrongful conduct, as documented in the following civil rights actions filed against the CITY and analogous prosecutions of NYPD officers:

- a. People v. Alicea, 00012-2013 (Sup. Ct., N.Y. Co.) (NYPD sergeant convicted of 10 felony counts of filing a false document and one misdemeanor count of official misconduct, for falsely swearing he observed two men engaged in a drug transaction, when video evidence clearly showed that the two arrestees had no contact; in response to the indictment, Manhattan District Attorney Cy Vance stated “We rightfully trust our police officers to report their activities truthfully. Those who do not erode the public’s trust in law enforcement... To falsely accuse anyone of a drug sale is not only unacceptable, it is a crime.”);
- b. People v. Arbeedy, 06314-2008 (Sup. Ct., Kings Co.) (NYPD narcotics detective found guilty of planting drugs on two innocent civilians; former undercover NYPD narcotics officer, Steve Anderson, testifies that fellow narcotics officers routinely maintained a stash of narcotics to plant on innocent civilians in order to help those officers meet their arrest quotas; Mr. Anderson testified concerning the NYPD’s practice of “attaching bodies” to the narcotics to make baseless arrests, stating: “It was something I was seeing a lot of, whether it was from supervisors or undercovers and even investigators. Seeing it so much, it’s almost like you have no emotion with it. The mentality was that they attach the bodies to it, they’re going to be out of jail tomorrow anyway, nothing is going to happen to them anyway. That kind of came on to me and I accepted it — being around that so long, and being an undercover”; the presiding judge, Justice Reichbach, stated: “Having been a judge for 20 years, I thought I was not naïve regarding the realities of narcotics enforcement. But even the court was shocked, not only by the seeming pervasive scope of the misconduct, but even more distressingly by the seeming casualness by which such conduct is employed”);
- c. Schoolcraft v. City of New York, 10-CV-6005 (RWS) (S.D.N.Y.) (police officer who exposed a precinct’s policies and practices of illegal quotas for the issuance of summonses and arrests, falsifying evidence and suborning perjury alleges he was arrested and committed to a psychiatric facility in retaliation for exposing said policies and practices to the press);

- d. Long v. City of New York, 09-CV-6099 (AKH) (S.D.N.Y.); People v. Pogan, 06416-2008 (Sup. Ct., N.Y. Co.) (officer who purposefully swore out a false complaint and used excessive force is convicted of falsifying police records and was prosecuted for recklessly using physical force; the plaintiff was engaged in expressive conduct, to wit, riding in a Critical Mass bicycle ride, when he was assaulted by the officer);
- e. Taylor-Mickens v. City of New York, 09-CV-7923 (RWS) (S.D.N.Y.) (police officers at the 24<sup>th</sup> Precinct issue four summonses to a woman in retaliation for her lodging a complaint with the Civilian Complaint Review Board at the precinct);
- f. Lin v. City of New York, 09-CV-1936 (PGG) (S.D.N.Y.) (officers arrest person lawfully photographing an arrest of a bicyclist in Times Square and swear out a criminal complaint whose facts are contradicted by video evidence);<sup>1</sup>
- g. Colon v. City of New York, 09-CV-0008 (E.D.N.Y.) In an Order dated November 25, 2009, which denied the CITY's motion to dismiss on Iqbal/Twombly grounds, wherein the police officers at issue were fired and prosecuted for falsifying evidence in a purported buy-and-bust operation, the Honorable District Court Judge Weinstein wrote:

Informal inquiry by the court and among the judges of this court, as well as knowledge of cases in other federal and state courts, has revealed anecdotal evidence of repeated, widespread falsification by arresting police officer of the New York City Police Department. Despite numerous inquiries by commissions and strong reported efforts by the present administration – through selection of candidates for the police force stressing academic and other qualifications, serious training to avoid constitutional violations, and strong disciplinary action within the department – there is some evidence of an attitude among officers that is sufficiently widespread to constitute a custom or policy by the city approving illegal conduct of the kind now charged.

- h. Bryant v. City of New York, 22011/2007 (Sup. Ct., Kings Co.) (jury declares that NYPD officers acted pursuant to a City policy regarding the number of arrests officers were expected to make that violated plaintiff's constitutional rights and contributed to her arrest);<sup>2</sup>

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<sup>1</sup> For a description of this case and settlement, *see*, Anahad O'Connor, *City Pays \$98,000 to Critical Mass Cyclists*, N.Y. Times, March 30, 2010, *available at* <http://cityroom.blogs.nytimes.com/2010/03/30/city-pays-98000-to-critical-mass-cyclists/>.

<sup>2</sup> For a description of this case and ultimate settlement, *see*, Oren Yaniv, *Court rules that cops do use quotas, woman injured in 2006 arrest settles for \$75,000*, N.Y. Daily News, Feb. 19, 2011, *available at* [http://www.nydailynews.com/news/ny\\_crime/2011/02/19/2011-02-19\\_court\\_rules\\_that\\_cops\\_do\\_use\\_quotas\\_woman\\_injured\\_in\\_2006\\_arrest\\_settles\\_for\\_750.html](http://www.nydailynews.com/news/ny_crime/2011/02/19/2011-02-19_court_rules_that_cops_do_use_quotas_woman_injured_in_2006_arrest_settles_for_750.html).

- i. Williams v. City of New York, 06-CV-6601 (NGG), 2009 U.S. Dist. LEXIS 94418 (E.D.N.Y.) (officers arrest plaintiff during a “vertical patrol” of a public housing project despite evidence that he had a legitimate reason to be on the premises);
- j. Carmody v. City of New York, 05-CV-8084 (HB), 2006 U.S. Dist. LEXIS 83207 (S.D.N.Y.) (police officer alleges that he was terminated for cooperating with another officer’s claims of a hostile work environment);
- k. MacNamara v. City of New York, 04-CV-9216 (RJS) (JCF) (S.D.N.Y.) (evidence of perjured sworn statements systematically provided by officers to attempt to cover-up or justify unlawful mass arrests of approximately 1800 people has been and continues to be developed in the consolidated litigation arising out of the 2004 Republican National Convention);
- l. McMillan v. City of New York, 04-CV-3990 (FB) (RML) (E.D.N.Y.) (officers fabricated evidence and used excessive force against an African-American man in Kings County and initiated drug charges against him, despite an absence of any quantum of suspicion);
- m. Avent v. City of New York, 04-CV-2451 (CBA) (CLP) (E.D.N.Y.) (same);
- n. Smith v. City of New York, 04-CV-1045 (RRM) (JMA) (E.D.N.Y.) (same);
- o. Powers v. City of New York, 04-CV-2246 (NGG), 2007 U.S. Dist. LEXIS 27704 (E.D.N.Y.) (police officer alleges unlawful retaliation by other police officers after testifying about corruption within the NYPD);
- p. Dotson v. City of New York, 03-CV-2136 (RMB) (S.D.N.Y.) (officers arrest and use excessive force against a candidate for City Council for trespassing in his own residential building);
- q. Richardson v. City of New York, 02-CV-3651 (JG) (CLP) (E.D.N.Y.) (officers fabricated evidence, including knowingly false sworn complaints, and used excessive force against an African-American man in Kings County and initiated drug charges against him, despite an absence of any quantum of suspicion);
- r. Taylor v. City of New York, 01-CV-5750 (ILG) (MDG) (E.D.N.Y.) (same as Richardson, except without the excessive force; judge at the criminal trial acquitting Mr. Taylor noted, on the record, that he had “significant doubt” about the truthfulness of the officers who testified);
- s. Walton v. Safir, 99-CV-4430 (AKH), 122 F.Supp.2d 466 (S.D.N.Y. 2000) (factual findings after trial that a 12-year veteran of NYPD was terminated in retaliation for criticizing the racially-motivated policies of the NYPD’s Street Crime Unit and for alleging that such policies led to the NYPD shooting death of Amadou Diallo); and
- t. White-Ruiz v. City of New York, 93-CV-7233 (DLC) (MHD), 983 F.Supp. 365, 380 (S.D.N.Y. 1997) (holding that the NYPD had an “unwritten policy or practice of

encouraging or at least tolerating a pattern of harassment directed at officers who exposed instances of police corruption”).

58. Furthermore, the existence of the aforesaid unconstitutional customs and policies, **specifically with regard to “productivity goals,”** may be further inferred from the following:

- a. Deputy Commissioner Paul J. Browne has repeatedly admitted that NYPD commanders are permitted to set “productivity goals.”<sup>3</sup>
- b. An NYPD transit lieutenant was captured on tape telling officers to make more arrests to meet a captain’s order and do more work if they want overtime assignments. “All they care about is ... summonses and arrests and 250s,” Lt. Janice Williams said, using police jargon for the NYPD Stop, Question and Frisk reports. She added, “The bottom line is everybody’s individual activity is being looked at.” Later in the recording - made during a roll call in 2010 at Transit District 34 in Coney Island - she said only officers with “good productivity” will get the opportunity to work overtime. She also said Capt. James Sheerin wanted every officer to make at least one arrest per month - up from the previous order of one every three months - because crime had spiked and arrest totals were lower than other transit districts. “He wants everyone to get in the mindset that there’s no more collar a quarter,” Williams said.<sup>4</sup>
- c. NYPD Officer Adil Polanco has asserted that his command, the 41<sup>st</sup> Precinct, regularly requires officer to make at least “one arrest and twenty summonses” per month. P.O. Polanco’s allegations were confirmed by an audiotape obtained by the media. The contents of the tape reveal that these quotas are enforced through coercion and threats of job loss, to wit, a patrol supervisor at the 41<sup>st</sup> Precinct is overheard saying: “If you think one and 20 is breaking your balls, guess what you’ll be doing. You’re gong (*sic*) to be doing a lot more, a lot more than what they’re saying.” The tape also reveals that another patrol supervisor chimed in and told the officers: “Next week, 25 and one, 35 and one, and until you decide to quit this job and go to work at a Pizza Hut, this is what you’re going to be doing till (*sic*) then.”<sup>5</sup>

<sup>3</sup> Jim Hoffer, *NYPD Officer claims pressure to make arrests*, WABC-TV Eyewitness News, March 2, 2010, available at <http://abclocal.go.com/wabc/story?section=news/investigators&id=7305356> (“Police Officers like others who receive compensation are provided productivity goals and they are expected to work”).

<sup>4</sup> Rocco Parascandola, *NYPD Lt. Janice Williams captured on tape pushing for more busts, but brass says there’s no quotas*, N.Y. Daily News, March 3, 2011, available at [http://www.nydailynews.com/ny\\_local/2011/03/03/2011-03-03\\_nypd\\_lt\\_janice\\_williams\\_captured\\_on\\_tape\\_pushing\\_for\\_more\\_busts.html](http://www.nydailynews.com/ny_local/2011/03/03/2011-03-03_nypd_lt_janice_williams_captured_on_tape_pushing_for_more_busts.html).

<sup>5</sup> *Id.*

- d. The New York Daily News obtained and published two internal memos which were posted inside the roll-call room at the NYPD's 77<sup>th</sup> Precinct. The memos specifically instructed officers about "number of tickets to give drivers for cell phone, seat belt, double-parking, bus stop, tinted windows and truck route violations" they were expected to issue. The memos remained posted for several weeks inside the roll-call room until the media began inquiring.<sup>6</sup>
- e. Responding to a query from a civilian who was cited on consecutive days in November of 2009 for allegedly occupying more than one seat on the New York City subway, the officer responded: "Recently we've been told to write tickets instead of give warnings for this type of thing." The officer explained that they needed to meet quotas.<sup>7</sup>
- f. In December of 2010 and in response to the pressure from their supervisors to write baseless summonses pursuant to the policy and practice of "quotas," police officers at the 79<sup>th</sup> Precinct considered organizing a so-called "daylong summons boycott." As one officer at the precinct explained, "Nobody feels this is right, asking us to write summonses just to meet a quota."<sup>8</sup>
- g. In response to the planned summons-boycott at the 79<sup>th</sup> Precinct, on December 13, 2010, Deputy Chief Michael Marino marched into the precinct at roll call with a deputy inspector and read officers the riot act. "Just try it," a police source quoted Marino as saying. "I'll come down here and make sure you write them." Marino also vowed to transfer people, like he did when he was the commanding officer of the 75<sup>th</sup> Precinct in East New York.<sup>9</sup>
- h. Capt. Alex Perez, the second in command at the NYPD's 81<sup>st</sup> Precinct, testified in a civil matter before a Brooklyn Supreme Court jury that officers are likely to get poor performance ratings if they have few arrests, conceding that that arrest numbers are a factor in evaluating an officer's performance.<sup>10</sup> Ultimately, the jury in that case ruled

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<sup>6</sup> James Fanelli, Cops at Brooklyn's crime-ridden 77<sup>th</sup> Precinct told to meet quotas for moving violations, memos say, N.Y. Daily News, Nov. 8, 2010, *available at* [http://www.nydailynews.com/ny\\_local/2010/11/08/2010-11-08\\_cops\\_told\\_to\\_meet\\_quotas.html](http://www.nydailynews.com/ny_local/2010/11/08/2010-11-08_cops_told_to_meet_quotas.html).

<sup>7</sup> Tom Namako and Kirsten Fleming, *Nighttime Riders in Big Sit Fit*, The New York Post, December 26, 2009, *available at* [http://www.nypost.com/p/news/local/space\\_hogs\\_lapped\\_on\\_empty\\_subways\\_m7iRAd9b4E9aYPuGvy5OO](http://www.nypost.com/p/news/local/space_hogs_lapped_on_empty_subways_m7iRAd9b4E9aYPuGvy5OO).

<sup>8</sup> Rocco Parascandola, *Irate cops at 79<sup>th</sup> Precinct in Bedford-Stuyvesant threaten boycott over quotas*, N.Y. Daily News, Dec. 12, 2010, *available at* [http://www.nydailynews.com/news/ny\\_crime/2010/12/12/2010-12-12\\_bklyn\\_cops\\_threaten\\_tixwriting\\_boycott.html#ixzz180Q0JW7t](http://www.nydailynews.com/news/ny_crime/2010/12/12/2010-12-12_bklyn_cops_threaten_tixwriting_boycott.html#ixzz180Q0JW7t).

<sup>9</sup> Rocco Parascandola, *Deputy Chief Michael Marino threatens cops at the 79<sup>th</sup> Precinct who want to go on summons strike*, N.Y. Daily News, Dec. 15, 2010, *available at* [http://www.nydailynews.com/ny\\_local/2010/12/15/2010-12-15\\_summons\\_strike\\_i\\_dare\\_ya\\_deputy.html](http://www.nydailynews.com/ny_local/2010/12/15/2010-12-15_summons_strike_i_dare_ya_deputy.html).

<sup>10</sup> William J. Gorta, *Brooklyn Mom's Suit Targets NYPD Arrest Quotas*, N.Y. Post, Feb. 15, 2011, at 6, *available on Westlaw at* 2011 WLNR 2986205; see also Oren Yaniv, *Capt. Links Arrests, Evaluation of Cops*, N.Y. Daily News, Feb. 15, 2011, at 20, also *available on Westlaw at* 2011 WLNR 2986205.

that the police had a policy “regarding the number of arrests officers were to make that violated plaintiff’s constitutional rights and contributed to her arrest.”<sup>11</sup>

- i. The New York City Office of Collective Bargaining concluded that officers in Brooklyn’s 75<sup>th</sup> Precinct were required to issue four parking tickets, three moving violation citations, three “quality-of-life” summonses, make one arrest and two stop-and-frisks each month. Arbitrator Bonnie Siber Weinstock ruled that the NYPD maintained an illegal “summons quota for traffic violations in the precinct and by penalizing officers for failing to meet the stated number of traffic citations.” She ordered the city to cease and desist from the practice.<sup>12</sup>
- j. Kieran Creighton, commander of the NYPD Housing Police Service Area 8 in the northern Bronx, was investigated for ordering officers to make a certain number of arrests each month. According to The New York Daily News:

The incident allegedly occurred in the spring when Creighton ordered at least eight members of an undercover anti-crime team to a meeting in Pelham Bay Park to berate them about an alleged lack of arrests, sources said.

“You can’t make the nine collars a month, then we’ll all have to go our separate ways,” Creighton told the officers, according to an internal complaint obtained by The News.

Anything less than nine arrests would be a “personal slap in the face,” Creighton allegedly said.

Creighton then told the cops to “finagle” the times of arrests so any overtime was paid for by a federally funded anti-drug program, the complaint alleges.

Unbeknownst to Creighton, one officer had his NYPD radio switched on - so the captain’s 10 to 12 minute speech was broadcast to Bronx precincts in Morrisania and Schuylerville and taped by a 911 dispatcher.<sup>13</sup>

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<sup>11</sup> Oren Yaniv, *Court rules that cops do use quotas, woman injured in 2006 arrest settles for \$75,000*, N.Y. Daily News, Feb. 19, 2011, available at [http://www.nydailynews.com/news/ny\\_crime/2011/02/19/2011-02-19\\_court\\_rules\\_that\\_cops\\_do\\_use\\_quotas\\_woman\\_injured\\_in\\_2006\\_arrest\\_settles\\_for\\_750.html](http://www.nydailynews.com/news/ny_crime/2011/02/19/2011-02-19_court_rules_that_cops_do_use_quotas_woman_injured_in_2006_arrest_settles_for_750.html).

<sup>12</sup> *New York City Ticket Quota Confirmed, Denied*, The Newspaper.Com, January 21, 2006, available at <http://www.thenewspaper.com/news/09/914.asp>; see also, Kirsten Cole, *NYPD’s Bogus Little Secret: Parking Ticket Quotas -- Agents Often Caught Citing You For Violations You Didn’t Commit*; WCBSTV.com, August 14, 2007, available at <http://wcbstv.com/topstories/parking.ticket.blitz.2.246533.html> (referring to the arbitrator’s report).

<sup>13</sup> Allison Gendar, *NYPD captain allegedly caught in arrest quota fixing*, The New York Daily News, November 14, 2007, available at [http://www.nydailynews.com/news/ny\\_crime/2007/11/14/2007-11-14\\_nypd\\_captain\\_allegedly\\_caught\\_in\\_arrest\\_-1.html#ixzz0bfPBhRTz](http://www.nydailynews.com/news/ny_crime/2007/11/14/2007-11-14_nypd_captain_allegedly_caught_in_arrest_-1.html#ixzz0bfPBhRTz).



59. The existence of the aforesaid unconstitutional customs and practices, **specifically with regard to the failure to supervise, train, instruct and discipline police officers and encouraging their misconduct**, are further evidenced, inter alia, by the following:

- a. The Report of the Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department (“Mollen Commission Report”), dated July 7, 1994, states:

In the face of this problem [of corruption], the [NYPD] allowed its systems for fighting corruption virtually to collapse. It has become more concerned about the bad publicity that corruption disclosures generate than the devastating consequences of corruption itself. As a result, its corruption control minimized, ignored and at times concealed corruption rather than root it out. Such an institutional reluctance to uncover corruption is not surprising. No institution wants its reputations tainted – especially a Department that needs the public’s confidence and partnership to be effective. A weak and poorly resources anti-corruption apparatus minimizes the likelihood of such taint, embarrassment and potential harm to careers. Thus there is a strong institutional incentive to allow corruption efforts to fray and lose priority – which is exactly what the Commission uncovered. This reluctance manifested itself in every component of the Department’s corruption controls from command accountability and supervision, to investigations, police culture, training and recruitment. For at least the past decade, the system designed to protect the Department from corruption minimized the likelihood of uncovering it.<sup>14</sup>

- b. Accordingly, in 1990, the Office of the Special Prosecutor, which investigated charges of police corruption, was abolished.
- c. In response to the Honorable Judge Weinstein’s ruling of November 25, 2009 in Colon v. City of New York, 09-CV-00008 (E.D.N.Y.), in which he noted a “widespread... custom or policy by the city approving illegal conduct” such as lying under oath and false swearing, then-Commissioner Raymond Kelly acknowledged, “When it happens, it’s not for personal gain. It’s more for convenience.”<sup>15</sup>

<sup>14</sup> Mollen Commission Report, pp. 2-3, *available at* [http://www.parc.info/client\\_files/Special%20Reports/4%20-%20Mollen%20Commission%20-%20NYPD.pdf](http://www.parc.info/client_files/Special%20Reports/4%20-%20Mollen%20Commission%20-%20NYPD.pdf).

<sup>15</sup> Oren Yaniv and John Marzulli, *Kelly Shrugs Off Judge Who Slammed Cops*, New York Daily News, December 2, 2009, *available at* [http://www.nydailynews.com/news/ny\\_crime/2009/12/02/2009-12-02\\_kelly\\_shrugs\\_off\\_judge\\_who\\_rips\\_lying\\_cops.html](http://www.nydailynews.com/news/ny_crime/2009/12/02/2009-12-02_kelly_shrugs_off_judge_who_rips_lying_cops.html).

- d. Regarding the CITY's tacit condonement and failure to supervise, discipline or provide remedial training when officers engage in excessive force, the Civilian Complaint Review Board is a CITY agency, allegedly independent of the NYPD, that is responsible for investigating and issuing findings on complaints of police abuse and misconduct.<sup>16</sup> When it does, however, then-Commissioner Kelly controls whether the NYPD pursues the matter and he alone has the authority to impose discipline on the subject officer(s). Since 2005, during Kelly's tenure, only one-quarter of officers whom the CCRB found engaged in misconduct received punishment more severe than verbal "instructions." Moreover, the number of CCRB-substantiated cases that the NYPD has simply dropped (i.e., closed without action or discipline) has spiked from less than 4% each year between 2002 and 2006, to 35% in 2007, and approximately 30% in 2008. Alarming, the NYPD has refused to prosecute 40% of the cases sent to it by the CCRB in 2009.<sup>17</sup> As a result, the percentage of cases where the CCRB found misconduct but where the subject officers were given only verbal instructions or the matter was simply dropped by the NYPD rose to 66% in 2007. Substantiated complaints of excessive force against civilians accounted for more than 10% of the cases that the NYPD dropped in 2007 and account for more than 25% of cases dropped in 2008.<sup>18</sup>
- e. In 2012, out 5,760 complaints taken up by the CCRB, the CCRB substantiated only 967 (about 9%). See, CCRB Annual Appendix 2012, available at [http://www.nyc.gov/html/ccrb/downloads/pdf/ccrb\\_annual\\_appendix\\_2012.pdf](http://www.nyc.gov/html/ccrb/downloads/pdf/ccrb_annual_appendix_2012.pdf). A former employee of the CCRB has reported that there is strong and explicit institutional pressure within the CCRB to keep the number of substantiated cases to a minimum. See David Noriega, *The Thin Blue Lie*, New Inquiry, available at <http://thenewinquiry.com/essays/the-thin-blue-lie/>. From 2002 through 2010, in 92 percent of the substantiated cases referred to the NYPD by the CCRB, the NYPD did not follow the CCRB's recommendation that officers with substantiated claims of misconduct be disciplined with the most serious penalty of charges and specifications.<sup>19</sup> In 2012, the NYPD issued only verbal or written "instructions" to the

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<sup>16</sup> In 2006, out of more than 10,000 allegations that were fully investigated, the CCRB substantiated only 594 (about 6%). In 2007, out of more than 11,000 allegations that were fully investigated, the CCRB substantiated only 507 (about 5%). See, CCRB Jan.-Dec. 2007 Status Report at p. 19, available at [http://www.nyc.gov/html/ccrb/pdf/ccrbann2007\\_A.pdf](http://www.nyc.gov/html/ccrb/pdf/ccrbann2007_A.pdf). Upon information and belief, the low rate of substantiated complaints is due in part to the above-noted *de facto* policy and/or well-settled and widespread custom and practice in the NYPD whereby officers refuse to report other officers' misconduct or tell false and/or incomplete stories, *inter alia*, in sworn testimony and statements given to the CCRB, to cover-up civil rights violations perpetrated by themselves or fellow officers, supervisors and/or subordinates.

<sup>17</sup> Christine Hauser, *Few Results for Reports of Police Misconduct*, New York Times, October 5, 2009, at A19.

<sup>18</sup> Daily News, *Editorial: City Leaders Must Get Serious About Policing the Police*, August 20, 2008.

<sup>19</sup> "Diminished Accountability: How Discipline for Police Misconduct is Downgraded by the NYPD," Citizens Union of the City of New York, March 2012, available at [http://www.citizensunion.org/www/cu/site/hosting/Reports/CUReport\\_AccountabilityPoliceMisconduct.pdf](http://www.citizensunion.org/www/cu/site/hosting/Reports/CUReport_AccountabilityPoliceMisconduct.pdf).



subject officer in 62 percent of the substantiated complaints referred to them by the CCRB, and declined to take any action whatsoever in 21 percent of such cases.<sup>20</sup>

60. The existence of the aforesaid unconstitutional customs and practices, **specifically with regard to the practice or custom of officers lying under oath, falsely swearing out criminal complaints, or otherwise falsifying or fabricating evidence**, are further evidenced, *inter alia*, by the following:

- a. The Mollen Commission concluded that police perjury and falsification of official records is probably the most common form of police corruption facing the criminal justice system. It concluded:

Regardless of the motives behind police falsifications, what is particularly troublesome about this practice is that it is widely tolerated by corrupt and honest officers alike, as well as their supervisors. Corrupt and honest officers told us that their supervisors knew or should have known about falsified versions of searches and arrests and never questioned them.<sup>21</sup>

[...]

What breeds this tolerance is a deep-rooted perception among many officers of all ranks within the Department that nothing is really wrong with compromising facts to fight crime in the real world. Simply put, despite the devastating consequences of police falsifications, there is a persistent belief among many officers that it is necessary and justifies, even if unlawful. As one dedicated officer put it, police officers often view falsification as, to use his words, “doing God’s work” – doing whatever it takes to get a suspected criminal off the streets. This attitude is so entrenched, especially in high-crime precincts, that when investigators confronted one recently arrested officer with evidence of perjury, he asked in disbelief, “What’s wrong with that? They’re guilty.”<sup>22</sup>

- b. In June of 2011, in the case in New York County Supreme Court entitled People v. William Eiseman (Ind. No. 2999-2010), NYPD Sergeant William Eiseman pled guilty to perjury and falsifying police records, “admit[ing] to faking a marijuana case

<sup>20</sup> CCRB Annual Report 2012, *available at* [http://www.nyc.gov/html/ccrb/downloads/pdf/ccrb\\_annual\\_2012.pdf](http://www.nyc.gov/html/ccrb/downloads/pdf/ccrb_annual_2012.pdf).

<sup>21</sup> Mollen Commission Report, p. 36.

<sup>22</sup> Mollen Commission Report, pp. 40-41.

against one man and cocaine-related charges against another – and training young [officers] to falsify paperwork to sidestep legal safeguards.” Supreme Court Justice Juan Merchan commented that Sgt. Eiseman’s admissions “paint a picture of a police officer who has challenged and undermined the integrity of the entire system we have here.”<sup>23</sup>

- c. In late 2009, a former NYPD officer in the Bronx, Pedro Corniel, was charged with perjury for claiming to have caught a burglar “red-handed,” when, in fact, two other officers had made the arrest and handed the arrest off to Mr. Corniel. The suspect was released.<sup>24</sup> Moreover,

Prosecutors and NYPD Internal Affairs probers have identified as many as two dozen cases in the past year in which cops allegedly made false statements involving routine arrests when the truth would have served them just as well.

That’s a significant increase over previous years, sources said. “In the past, we’d find this happening once or twice a year, and now there are a bunch of them,” said one law-enforcement official.

What has the authorities particularly troubled is that officers historically have lied to cover up more serious corruption, such as the cadre of Brooklyn narcotics cops caught last year stealing drugs from dealers and masking their thievery by filing false reports about what they had seized.

But internal probers are now finding that officers appear willing to take insidious shortcuts and lie on arrest reports when they are processing even routine collars, such as grand larceny, burglaries and robberies, sources told The Post.

Their reasons could range from trying to cut down on paperwork to being lazy when filling out arrest and incident reports.<sup>25</sup>

- d. In 2007, former NYPD Officer Dennis Kim admitted to accepting money and sexual favors from the proprietor of a brothel in Queens County in exchange for protecting that brothel. Mr. Kim was convicted of those offenses. The 109<sup>th</sup> Precinct of the NYPD, which used to be Mr. Kim’s command, is also under investigation by the

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<sup>23</sup> Melissa Grace, *NYPD Sgt. William Eiseman pleads guilty to lying under oath in plea deal*, N.Y. Daily News, June 27, 2011, available at [http://www.nydailynews.com/news/ny\\_crime/2011/06/27/2011-06-27\\_nypd\\_sgt\\_william\\_eiseman\\_pleads\\_guilty\\_to\\_lying\\_under\\_oath\\_in\\_plea\\_deal.html](http://www.nydailynews.com/news/ny_crime/2011/06/27/2011-06-27_nypd_sgt_william_eiseman_pleads_guilty_to_lying_under_oath_in_plea_deal.html).

<sup>24</sup> Murray Weiss, *NYPD in a Liar Storm*, N.Y. Post, Oct. 26, 2009, available at [http://www.nypost.com/p/news/local/nypd\\_in\\_liar\\_storm\\_qazMBEm3UNJVogv4Ndeqcl](http://www.nypost.com/p/news/local/nypd_in_liar_storm_qazMBEm3UNJVogv4Ndeqcl).

<sup>25</sup> *Id.*

United States Attorney's Office for "plant[ing] drugs on suspects and steal[ing] cash during gambling raids." The 109<sup>th</sup> Precinct is believed to be involved in a practice known as "flaking" wherein police officers plant drugs on suspects in order to bring legitimacy to an arrest. According to Assistant United States Attorney Monica Ryan, members of the 109<sup>th</sup> Precinct "maintained a small stash of drugs in an Altoids tin for this purpose."<sup>26</sup>

- e. In December of 2009, two officers from the 81<sup>st</sup> Precinct in Brooklyn arrested and falsely swore out charges against an undercover officer from the Internal Affairs Bureau. As explained in an article in the New York Post:

The officers were snared in a sting by Internal Affairs in December when they were told to keep an eye out for people selling untaxed cigarettes in their precinct.

Some time later, they saw a man hanging out on a corner in the neighborhood and found that he was carrying packs of knock-off smokes.

[Sgt. Raymond] Stukes, 45, and [Officer Hector] Tirado, 30, cuffed him, but then claimed that they had seen him selling the bogus butts to two people, according to sources.

Little did the hapless cops know that the man in their custody was an undercover corruption investigator and that the whole incident was caught on video.

To complete the ruse, the undercover cop was processed at the station house so as to not tip off Stukes and Tirado about the sting...

[P]olice sources said [this action] stem[s] from precinct commanders caving to the pressure of top brass to make themselves look better.

"There's pressure on the cops from the bosses and they're getting pressured from headquarters," a police source told The Post.<sup>27</sup>

The officers were indicted for felony perjury, filing a false report and filing a false instrument.<sup>28</sup>

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<sup>26</sup> John Marzulli, *Claims of Corruption at Queens Precinct Put Crooked Cop's Sentencing on Hold*, New York Daily News, June 20, 2008, available at [http://www.nydailynews.com/news/ny\\_crime/2008/06/20/2008-06-20\\_claims\\_of\\_corruption\\_at\\_queens\\_precinct.html](http://www.nydailynews.com/news/ny_crime/2008/06/20/2008-06-20_claims_of_corruption_at_queens_precinct.html).

<sup>27</sup> Larry Celona and Tim Perone, *Cops Sting Cops*, N.Y. Post, July 30, 2010, available at [http://www.nypost.com/p/news/local/brooklyn/cops\\_sting\\_cops\\_lyItuTeLdhKWtruJZYsdL](http://www.nypost.com/p/news/local/brooklyn/cops_sting_cops_lyItuTeLdhKWtruJZYsdL).

- f. In early 2010, the CITY settled a civil rights lawsuit wherein one Officer Sean Spencer<sup>29</sup> falsely arrested and accused a 41-year old grandmother of prostitution, promising to pay the woman \$35,000. In court documents, Caroline Chen, the attorney representing the CITY in the case, admitted: “Officer Spencer falsely reported to the assistant district attorney that he saw [the plaintiff] beckon to three male passersby and that he was aware that plaintiff was previously arrested for [prostitution] when the plaintiff had never been arrested for this offense.”<sup>30</sup>
  - g. Separate grand jury investigations into drug-related police corruption in the Bronx and Manhattan revealed that more than a dozen officers had been breaking into drug dealers’ apartments, stealing and then selling their drugs and perjuring themselves by filing false arrest reports. District attorneys and their assistants interviewed during a four-month investigation by New York Newsday said they believe those two grand jury investigations - in the 46<sup>th</sup> Precinct in the University Heights section of the Bronx and the 34<sup>th</sup> Precinct - are not isolated instances. They say the investigations reflect a larger, broader problem within the NYPD that its top officials seem unable or unwilling to acknowledge.<sup>31</sup>
61. The existence of the aforesaid unconstitutional customs and practices, **specifically with regard to the practice or custom of discouraging police officers from reporting the corrupt or unlawful practices of other police officers and of retaliating against officers who report misconduct**, are further evidenced, inter alia, by the following:
- a. Former New York County District Attorney Robert Morgenthau has been quoted as acknowledging that, in the NYPD, there is a “code of silence,” or a “code of protection” that exists among officers and that is followed carefully;
  - b. In 1985, former NYPD Commissioner Benjamin Ward, testifying before a State Senate Committee, acknowledged the existence of the “code of silence” in the NYPD;

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<sup>28</sup> John Marzulli, *Brooklyn cops charged with barding into sting operation, arresting a fellow officer on bogus charges*, N.Y. Daily News, July 30, 2010, available at [http://www.nydailynews.com/ny\\_local/2010/07/30/2010-07-30\\_brooklyn\\_cops\\_charged\\_with\\_barging\\_into\\_sting\\_operation\\_arresting\\_a\\_fellow\\_offic.html](http://www.nydailynews.com/ny_local/2010/07/30/2010-07-30_brooklyn_cops_charged_with_barging_into_sting_operation_arresting_a_fellow_offic.html).

<sup>29</sup> In sum, the CITY has paid out \$80,000 to settle four (4) federal lawsuits against Officer Sean Spencer. John Marzulli, *City shells out \$35G to grandmother, Monica Gonzalez, busted as hooker*, New York Daily News, January 7, 2010, available at [http://www.nydailynews.com/ny\\_local/2010/01/08/2010-01-08\\_city\\_shells\\_out\\_35g\\_to\\_granny\\_busted\\_as\\_hooker.html](http://www.nydailynews.com/ny_local/2010/01/08/2010-01-08_city_shells_out_35g_to_granny_busted_as_hooker.html).

<sup>30</sup> *Id.*

<sup>31</sup> David Kocieniewski and Leonard Levitt, *When the Finest Go Bad: DAs, others say department overlooks corruption*, New York Newsday, November 18, 1991, at 6.

- c. Former NYPD Commissioner Robert Daly wrote in 1991 that the “blue wall of solidarity with its macho mores and prejudices, its cover-ups and silence, is reinforced every day in every way.”

- 62. The existence of the above-described unlawful de facto policies and/or well-settled and widespread customs and practices was known to, encouraged and/or condoned by supervisory and policy-making officer and officials of the NYPD and the CITY, including, without limitation, then-Commissioner Kelly.
- 63. The actions of the officer-defendants resulted from and were taken pursuant to the above-mentioned de facto policies and/or well-settled and widespread customs and practices of the CITY, which were implemented by members of the NYPD, of engaging in systematic and ubiquitous perjury, both oral and written, to cover-up federal law violations committed against civilians by either themselves or their fellow officers, supervisors and/or subordinates. They did so with the knowledge and approval of their supervisors, commanders and then-Commissioner Kelly who all: (i) tacitly accepted and encouraged a code of silence wherein police officers refused to report other officers’ misconduct or told false and/or incomplete stories, inter alia, in sworn testimony, official reports, in statements to the CCRB and the Internal Affairs Bureau (“IAB”), and in public statements designed to cover for and/or falsely exonerate accused police officers; and (ii) encouraged and, in the absence of video evidence blatantly exposing the officers’ perjury, failed to discipline officers for “testilying” and/or fabricating false evidence to initiate and continue the malicious prosecution of civilians in order to cover-up civil rights violations perpetrated by themselves or fellow officers, supervisors and/or subordinates against those civilians.
- 64. All of the foregoing acts by the officer-defendants deprived Mr. KING of federally protected rights, including but limited to the constitutional rights enumerated in paragraphs “50” above.

65. The CITY knew or should have known that the acts alleged herein would deprive the Mr. KING of his rights secured by the Fourth and Fourteenth Amendments to the United States Constitution.
66. The CITY is directly liable and responsible for the acts of the officer-defendants because it repeatedly and knowingly failed to properly supervise, train, instruct, and discipline them and because it repeatedly and knowingly failed to enforce the rules and regulations of the CITY and NYPD, and to require compliance with the Constitution and laws of the United States.
67. Despite knowledge of such unlawful de facto policies, practices and/or customs, these supervisory and policy-making officers and officials of the NYPD and the CITY, including then-Commissioner Kelly, did not take steps to terminate these policies, practices and/or customs, did not discipline individuals who engaged in such policies, practices and/or customs, or otherwise properly train police officers with regard to the constitutional and statutory limits on the exercise of their authority, and instead sanctioned and ratified these policies, practices and/or customs through their active encouragement of, deliberate indifference to and/or reckless disregard of the effect of said policies, practices and/or customs upon the constitutional rights of persons in the City of New York.
68. The aforementioned CITY policies, practices and/or customs of failing to supervise, train, instruct and discipline police officers and encouraging their misconduct are evidenced by the police misconduct detailed herein. Specifically, pursuant to the aforementioned CITY policies, practices and/or customs, Officer FRANCAVILLA felt empowered to exercise unreasonable and wholly unprovoked force against Mr. KING, arrest Mr. KING without probable cause and then fabricate and swear to a false story to cover up his blatant violations of Mr. KING's constitutional rights. Pursuant to the aforementioned CITY policies, practices

and/or customs, the officer-defendants failed to intervene in or report other defendants' violation of Mr. KING's rights or subsequent perjury.

69. Mr. KING's injuries were a direct and proximate result of the CITY and the NYPD's wrongful de facto policies and/or well-settled and widespread customs and practices and of the knowing and repeated failure of the CITY and the NYPD to properly supervise, train and discipline their police officers.

70. The actions of the officer-defendants resulted from and were taken pursuant to the above-described de facto policies and/or well-settled and widespread customs and practices of the CITY, which were implemented by agents or employees of the NYPD, of employing wholly unprovoked and excessive force and fabricating evidence in order to cover up their own constitutional violations.

### **JURY DEMAND**

71. Mr. KING demands a trial by jury in this action on each and every one of his damage claims.

**WHEREFORE** Mr. KING demands judgment against the defendants individually and jointly and prays for relief as follows:

- a. That he be compensated for violation of his constitutional rights, pain, suffering, mental anguish, and humiliation; and
- b. That he be awarded punitive damages against the individual defendants; and
- c. That he be compensated for attorneys' fees and the costs and disbursements of this action; and
- d. For such other further and different relief as to the Court may seem just and proper.

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Dated: New York, New York  
April 2, 2014

Respectfully submitted,

/s/

By:

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Robert M. Quackenbush  
Rankin & Taylor, PLLC  
*Attorneys for the Plaintiff*  
11 Park Place, Suite 914  
New York, New York 10007  
t: 212-226-4507